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TOWNSEND and TOWNSEND and CREW LLP

By: Kimberly Hellett

PATENT

Docket No.: 016930-000816US

Client Ref. No.: CJ01656KQ

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Heidrun Engler et al.

Application No.: 10/055,863

Filed: January 22, 2002

For: COMPOSITIONS AND METHODS  
FOR ENHANCING DELIVERY OF  
THERAPEUTIC AGENTS TO CELLS

Customer No.: 20350

Confirmation No.: 4929

Examiner: Elli Peselev

Art Unit: 1623

REQUEST FOR  
RECONSIDERATION OF PATENT  
TERM ADJUSTMENT  
DETERMINATION UNDER 37  
C.F.R. §1.705(b)

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.705(b), Applicants respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in §1.18(e) and a statement of facts as required under 37 C.F.R. §1.705(b)(2). This request is prompted by the recent court decision in *Wyeth v. Dudas* (Case No. 07-1492, D.D.C. 2008) which held that the periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §154(b)(1)(B) overlap only if they occur on the same calendar day or days.

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Assignees of the instant application note that a terminal disclaimer was filed on November 29, 2004, over the prior patent, US Patent 6,392,069 filed on July 8, 1998, and accordingly with an expiration date of July 8, 2018.

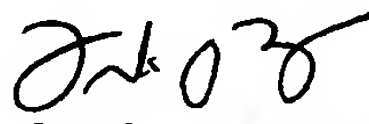
**Patent Term Adjustment Determination**

Applicants are entitled to 359 days of patent term adjustment, *i.e.*, [535 days ("A delay" + "B delay")] minus [176 days ("applicant delay")]. Applicants are also entitled to any period of adjustment under 37 C.F.R. §1.703(a)(6).

Please charge the fee set forth in 37 C.F.R. §1.18(e) (\$200.00) to Deposit Account No. 20-1430. Please charge any necessary additional fees or credit any overpayments to the Deposit Account No. 20-1430.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

Respectfully submitted,

  
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